

**JAMAL L. SMITH, in his official capacity as
EXECUTIVE DIRECTOR,**
Complainant,

v.

**GENE CARTER, ROBERT C. CARTER,
SYLVIA J. CARTER and THE CARTER BUILDING**
Respondents.

NOTICE OF FINDING and ISSUANCE OF CHARGE

The Executive Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following finding with respect to the above-referenced case. The Executive Director finds that there is reasonable cause to believe an unlawful discriminatory act has occurred or is occurring. 910 IAC 2-6-6(a). The Director, therefore, issues this Charge. 910 IAC 2-6-6(b)

On May 2, 2011, [REDACTED] ("Complainant") filed a complaint with the Commission against Gene Carter, Robert C. Carter, Sylvia J. Carter and The Carter Building ("Respondents"), alleging unlawful discriminatory housing practices based on national origin/ancestry, in violation of the Indiana Fair Housing Act (IC 22-9-5.5 et. Seq.), the Indiana Civil Rights Law (IC 22-9 et. Seq.) [REDACTED]. The complaint was filed within one year of the alleged discriminatory practice and Respondent conducts business in the State of Indiana. The Commission, therefore, has jurisdiction over the parties and the subject matter of this complaint.

A Commission investigation has been completed. All parties have been interviewed. Based on the final investigative report and a full review of the relevant files and records, the Executive Director now finds the following:

The issue before the Commission is whether Respondent terminated Complainant's lease due to Complainant's national origin/ancestry. In order to prevail on such a claim, Complainant must show that 1) she is a member of a protected class, 2) she was qualified to continue occupancy consistent with the terms and conditions offered by Respondent, 3) Respondent terminated Complainant's lease and 4) tenants of a

different national origin/ancestry were treated more favorably under similar circumstances.

Complainant is a member of a protected class by virtue of her national origin/ancestry. The record shows Complainant was qualified to remain as a tenant at the Respondent's apartment building in accordance with Respondent's terms and conditions. Respondent claims that Complainant had too many cars, too many visitors, made too much noise and her cooking smelled bad. Complainant's lease was terminated for these reasons. The evidence indicates that Complainant had only two (2) vehicles during her three (3) month stay in the Respondent's apartment building. Respondent could not produce any evidence that supported its allegation that Complainant had more than two (2) vehicles. It is also important to note that Respondent's lease puts no limit on the number of vehicles a tenant can have. Respondent reported not witnessing any of the allegations alleged against Complainant other than the smell of her cooking. Moreover, Respondent indicated none of the complaints against Complainant were documented, because the complaints were all verbal.

Respondent reported not terminating the lease of any tenant during its ownership. Respondent could not provide any substantive evidence—e.g. lease violations, warning letters, documented complaints, etc.—to justify its termination of Complainant's lease. Furthermore, there is evidence that tenants of a different national origin were also noisy and had many visitors, but were not asked to vacate.

This evidence establishes reasonable cause to believe that Respondent has violated the Indiana Civil Rights Law, the Indiana Fair Housing Act, and the Federal Fair Housing Act. As permitted by 910 IAC 2-6-6(h), any party to this complaint may elect to have the claims asserted in this charge decided in a state court, in lieu of an administrative proceeding under 910 IAC 2-7. Such an election must be made no later than twenty (20) days after service of this Notice of Finding and Charge. The notice of election must be filed with the Commission and served on the Director, the Respondents and Complainant.

If such an election is not timely made, an administrative hearing of this matter will be scheduled. Respondents shall have an opportunity to file an answer to this charge within thirty (30) days of service of this charge. Rana Salamaan and any other person aggrieved by this alleged discriminatory practice may participate as a party in the administrative hearing by filing a request for intervention. All discovery in this matter must be completed fifteen (15) days prior to the date of hearing.

If at any time following service of this charge Respondents intend to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondents must provide a copy of this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3)

Date August 10, 2011

Jamal L. Smith
Executive Director
Indiana Civil Rights Commission